



State of Tennessee
Health Services and Development Agency

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DATE: DECEMBER 5, 2016

TO: INTERESTED PARTIES

FROM: MELANIE M. HILL, EXECUTIVE DIRECTOR

SUBJECT: CALL FOR COMMENTS: DEVELOPMENT of QUALITY MEASURES

Public Chapter No. 1043 was enacted effective July 1, 2016 which made significant changes relative to the certificate of need (CON) process. Among those changes were adding a fourth criterion for the granting of a certificate of need — health care that meets appropriate quality standards and the requirement to maintain continuing oversight of CONs granted after July 1, 2016 for continued need and appropriate quality measures as determined by the agency.

As it seeks to develop rules to measure quality, the Agency is seeking comments from interested parties. Please submit your comments on any of the following to Mark Farber (Mark.Farber@tn.gov) by December 20, 2016:

Health Care Institution:

Hospital; Nursing Home; Ambulatory Surgical Treatment Center; Mental Health Hospital; ICF/IID; Home Health Agency; Hospice; Outpatient Diagnostic Center; Nonresidential Substitution-based Treatment Center for Opiate Addiction; Recuperation Center; Rehabilitation Facility; Residential Hospice

Health Care Service:

Burn Unit; NICU; Open Heart Surgery; Organ Transplantation; Cardiac Catheterization; Linear Accelerator; Positron Emission Tomography; Home Health; Hospice; Psychiatric; Opiate Addiction Treatment provided through a Nonresidential Substitution-based Treatment Center for Opiate Addiction; Magnetic Resonance Imaging; Satellite Emergency Department

The Agency will consult with representatives from the Departments of Health, Mental Health and Substance Abuse Services, and Intellectual and Developmental Disabilities. A stakeholder

meeting will be held after the first of the year, possibly in January. The Agency will most likely discuss draft rules at its February meeting.

Here are some pertinent sections from the certificate of need statute.

TCA 68-11-1609 (b) No certificate of need shall be granted unless the action proposed in the application is necessary to provide needed health care in the area to be served, can be economically accomplished and maintained, *will provide health care that meets appropriate quality standards* and will contribute to the orderly development of adequate and effective health care facilities or services.

TCA 68-11-1609 (h) The agency shall maintain continuing oversight over any certificate of need that it approves on or after July 1, 2016. Oversight by the agency shall include requiring annual reports concerning continued need and appropriate quality measures as determined by the agency. The agency may impose conditions on a certificate of need that require the demonstration of compliance with continued need and quality measures; provided, that conditions for quality measures may not be more stringent than those measures identified by the applicant in the applicant's submitted application.

TCA 68-11-1633. Development of measures for assessing quality of entities receiving certificate of need -- Failure to meet quality measures -- Penalties.

(a) In consultation with the state health planning division and the board for licensing healthcare facilities or the department of mental health and substance abuse services, whichever is appropriate, and subject to § 68-11-1609(h) the agency shall develop measures by rule for assessing quality for entities that, on or after July 1, 2016, receive a certificate of need under this part. In developing quality measures, the agency may seek the advice of stakeholders with respect to certificates of need for specific institutions or services.

(b) If the agency determines that an entity has failed to meet the quality measures developed under this section, the agency shall refer that finding to the board for licensing healthcare facilities or the department of mental health and substance abuse services, whichever is appropriate, for appropriate action on the license of the entity under part 2 of this chapter.

(c) If the agency determines that an entity has failed to meet any quality measure imposed as a condition for a certificate of need by the agency, the agency may impose penalties pursuant to § 68-11-1617 or revoke a certificate of need pursuant to § 68-11-1619.

Please contact Jim Christoffersen at Jim.Christoffersen@tn.gov if you have questions regarding the rulemaking process. Please contact Mark Farber at Mark.Farber@tn.gov regarding any comments you would like to submit.

You are always welcome to contact me with any questions at Melanie.Hill@tn.gov.

Thank you.